THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8866 OF 2006

DATED 27th APRIL, 2006

BETWEEN

B.Satyamma and others.

… Petitioners

and

The Joint Collector, Ranga Reddy District at Khairatabad,

Hyderabad and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.8866 OF 2006

ORDER:

The petitioners invoked the jurisdiction of this Court under Article 226 of Constitution of India seeking a writ of certiorari to quash the orders, dated 28.01.2006 in case No.F1/6114/1993, passed by Joint Collector-II, Ranga Reddy District, the first respondent herein. By the said impugned order, the first respondent dismissed the appeal filed by the petitioners under Section 24 of the A.P. (Telangana Area) Abolition of Inams Act, 1955 (the Act, for brevity) as barred by limitation.

The brief fact of the matter is as follows. One Pentaiah, father of the second petitioner, was allegedly in possession of lands admeasuring Acs.0.15 guntas in survey No.121 and Acs.1.27 guntas in survey No.123 situated at Mandabad, hamlet of Alwal of Malkajgiri Mandal in Ranga Reddy District. Pentaiah allegedly purchased the land from Venkat Rao on 16.01.1963 and he was in possession of the property. After death of Pentaiah, the petitioners claimed that they are in possession, which was also recorded in Pahani Patrika for the year 1973-1974 and inamdars also filed a declaration before Additional Land Reforms Tribunal (West), Hyderabad. The petitioners filed application before the Inams Tribunal and Revenue

Divisional Officer (RDO), Chevella, under the Act for Occupancy Rights Certificate (ORC) in file No.L/801/1983 and L/52/1993. However, the RDO intimated by Memo, dated 30.04.1993, to the effect that the ORC was already issued in favour of respondents 3 to 5 in respect of the subject land. Therefore, they applied for certified copy of ORC, dated 10.12.1975 and then filed appeal under Section 24 of the Act before the first respondent in the year 1993. The same was dismissed by the impugned order, dated 28.01.2006.

Learned counsel for the petitioners submits that the petitioners purchased the land from the inamdars who declared before the Land Reforms Tribunal about this and therefore, the Inams Tribunal could not have issued ORC in favour of respondents 3 to 5. Secondly, he submits that it was erroneous on the part of the first respondent to have dismissed the appeal on the ground of limitation. According to the learned counsel, the appeal was filed in 1993, which was taken on file by the Joint Collector and after keeping it pending for about twelve years, the Joint Collector erroneously dismissed the appeal on the ground of limitation.

As rightly pointed out by the learned counsel for the petitioners, the first respondent has not gone into the merit of the claim of the petitioners for ORC. The appeal was dismissed on the ground of delay in filing the appeal as barred by limitation. The Joint Collector applied Section 24 of the Act, which reads as under.

> **24. Appeals from orders under Section 10 to prescribed authority:-**
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> (1) Any person aggrieved by a decision of the Collector under Section 10 may, within thirty days from the date of decision, or such further time as the prescribed authority may for sufficient cause allow, appeal to the prescribed authority and its decision shall be final.
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> (2) If any question arises whether any building or land fails within the scope of Section 9 the same shall be referred to the prescribed authority whose decision shall be final.

It is plain from the provision that the appeal has to be filed within thirty days or within such time as may be allowed by the appellate authority. When the appeal was registered and numbered by the first respondent, it does not mean that the Joint Collector condoned the delay. It should be construed that the appellate authority registered the appeal subject to consideration of the question of condoning the delay depending on the reasons for such delay. If at the time of final consideration, the Joint Collector comes to the conclusion that the appeal is filed after lapse of eighteen years and dismissed it on that reason, it cannot be faulted having regard to the language of Section 24 of the Act. Even if the appeal is numbered, the same can be dismissed on the ground of limitation at any point of time.

It is nextly contended by the learned counsel that the petitioners also filed an application for condonation of delay giving valid reasons. But the learned counsel is not able to definitely assert whether such application is filed nor a copy of the application for condonation of delay is placed before this Court. Be that as it is,

under Section 27 of the Limitation Act, 1963, the delay in seeking redressal in a legal forum results in extinguishment of the rights. The mere registration of appeal does not resurrect extinguished rights nor create new rights. If the authority condoned delay as per the statute and gives redressal, it would be a different matter altogether.

In this case, though the appeal was kept pending from 1993, the Joint Collector rightly applied the principle of law of limitation and dismissed the appeal. There was a huge delay of eighteen years and it would be very incongruous to infer that the petitioners, who are allegedly in possession of the land, were not aware of issue of ORC to respondents from 1975 onwards. This Court does not find any infirmity in the impugned order.

The writ petition is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

27.04.2006

pln